

5575. Adulteration of Puddine. U. S. v. 44 Cases of an article labeled in part "Puddine For Making Desserts." Default decree of condemnation and destruction. (F. D. C. No. 9710. Sample No. 23251-F.)

On March 26, 1943, the United States attorney for the Eastern District of Pennsylvania filed a libel against 44 cases, each containing 24 packages, of the above-named product at Lancaster, Pa., alleging that the article had been shipped in interstate commerce within the period from on or about September 17, 1942, to February 23, 1943, by Martin Gillet & Co. from Baltimore, Md.; and charging that it was adulterated in that it consisted in whole or in part of filthy substances, insect fragments, rodent hair fragments, and hair fragments resembling rodent hair; and in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

On April 17, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

5576. Misbranding of ice cream powder. U. S. v. 150 Cases of Assorted Flavors of Jell-O Ice Cream Powder. Default decree of condemnation. Products ordered distributed to welfare organizations. (F. D. C. No. 10145. Sample Nos. 48326-F to 48328-F, incl.)

These products were short-weight.

On June 24, 1943, the United States attorney for the Southern District of Ohio filed a libel against 150 different flavored packages of Jell-O ice cream powder at Cincinnati, Ohio, which had been consigned on or about June 5, 1943, alleging that the articles had been shipped in interstate commerce on or about June 5, 1943, by the General Foods Sales Co., Inc., from Chicago, Ill.; and charging that they were misbranded. The articles were labeled in part: "Imitation Strawberry Flavor Net Wt. 4¾ Oz. [or "Vanilla Flavor Net Wt. 4¾ Oz." or "Chocolate Flavor Net Wt. 4 Oz.]" * * * Jell-O Ice Cream Powder."

The articles were alleged to be misbranded in that the hereinbefore quoted statements with respect to the quantity of the contents of the packages were false and misleading as applied to articles that were short-weight; and in that they were in package form and failed to bear labels containing an accurate statement of the quantity of the contents.

On July 27, 1943, no claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to various welfare organizations.

5577. Adulteration and misbranding of cracker sandwiches and confections. U. S. v. Beavens Lee Terry (B. L. Terry Co.). Plea of guilty. Fine, \$100. (F. D. C. No. 9682. Sample Nos. 37032-F to 37035-F, incl., 37065-F, 37067-F, 37068-F, 37083-F, 37085-F, 37086-F, 45921-F to 45923-F, incl.)

Analysis of samples showed that this product contained one or more of the following filthy substances: Insect fragments, hair fragments resembling rodent hair fragments, a whole insect, and mites. Portions of the product were short weight and the statement appearing on the label of one portion, and purporting to be a statement of the quantity of contents, was illegible.

On September 16, 1943, the United States attorney for the Western District of Virginia filed an information against Beavens Lee Terry, trading as the B. L. Terry Co., Bristol, Va., alleging shipment within the period from on or about February 17 to March 24, 1943, from the State of Virginia into the States of West Virginia and Tennessee of quantities of cracker sandwiches and confections which were adulterated and portions of which were misbranded. The article was labeled in part: (Packages) "Terry's Crispy Toasts [or "Rich Cheese," "Cheeztang," "Two-Tone," "Strawberry Sandwich," "Tas-T-Nut," or "Pineapple Sandwich"]."

The article was alleged to be adulterated in that it consisted in whole or in part of a filthy substance, and in that it had been prepared under insanitary conditions whereby it might have become contaminated with filth.

Portions of the article were alleged to be misbranded in that the statement "Wt. 2 Oz.," borne on a number of the packages, was false and misleading since such packages contained an amount less than 2 ounces; and in that such portions were in package form and did not bear a label containing an accurate statement of the quantity of the contents.

On November 9, 1943, the defendant having entered a plea of guilty, the court imposed a fine of \$10 on each of 10 counts, totaling \$100.

5578. Adulteration and misbranding of cheese sandwiches and misbranding of cheese snacks. U. S. v. 16 Dozen Cans of Cheese Sandwiches and 90 Boxes of Cheese Snacks. Default decrees of condemnation and destruction. (F. D. C. Nos. 10395, 10403. Sample Nos. 19227-F, 20115-F, 34216-F.)

These "cheese sandwiches" contained a filling consisting essentially of 20 to 25 percent cheese, cornstarch, an edible oil other than butter fat and added coal-tar color. The "Cheese Snacks" were short weight.

On August 11 and 12, 1943, the United States attorneys for the District of Massachusetts and the Western District of Pennsylvania filed libels against 16 dozen cans of cheese sandwiches at Boston, Mass., and 90 boxes of cheese snacks at Pittsburgh, Pa., alleging that the articles had been shipped in interstate commerce within the period from on or about April 22 to July 7, 1943, by the King Kone Corporation, from New York, N. Y. The articles were labeled in part: "Old London Dainty Cheese Sandwiches," or "Toasted Cheese Snacks * * * Net Wt. 2½ Oz."

The cheese sandwiches were alleged to be adulterated (1) in that a valuable constituent, cheese, had been omitted; (2) in that wafer sandwiches containing a filling of cheese, cornstarch, edible oil other than butter fat, and artificial color, had been substituted in whole or in part for "Old London Dainty Cheese Sandwiches," which they were represented to be; (3) in that inferiority had been concealed by the addition of artificial coloring; and (4) in that edible oil other than butter fat, artificial coloring, and cornstarch had been added thereto or mixed or packed therewith so as to make it appear better or of greater value than it was.

The cheese sandwiches were alleged to be misbranded in that the statement, "Old London Dainty Cheese Sandwiches," was false and misleading. The cheese snacks were alleged to be misbranded in that the statement "Net Wt. 2½ Oz." was false and misleading as applied to an article that was short weight, and in that they were in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On September 14 and 20, 1943, no claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

5579. Misbranding of peanut butter sandwiches. U. S. v. Madalynn J. Kelley (Bob Kelley Food Sales Co.) Plea of guilty. Fine, \$300 and costs. (F. D. C. No. 9663. Sample No. 32067-F, 32068-F.)

On June 25, 1943, the United States attorney for the Western District of Kentucky filed an information against Madalynn J. Kelley, trading under the name Bob Kelley Food Sales Co. at Louisville, Ky, alleging shipment within the period from on or about March 12 to 23, 1943, from the State of Kentucky into the State of Ohio of a quantity of peanut butter sandwiches which were misbranded. The articles were labeled in part: (Label inserted inside cellophane package) "The Original Bob Kelley's Butter Cracker [or "Cheese Cracker"] and Peanut Butter Sandwich * * * Net Wt. 1¾ Oz."

The articles were alleged to be misbranded (1) in that the statement "Net Wt. 1¾ Oz.," borne on the label, was false and misleading, since the packages did not contain 1¾ ounces net weight, but did contain a smaller amount; and (2) in that they were in package form and did not bear labels containing an accurate statement of the quantity of the contents.

On September 20, 1943, the defendant having entered a plea of guilty, the court imposed a fine of \$300 and costs.

5580. Misbranding of peanut butter sandwich. U. S. v. 13,520 Packages of Peanut Butter Sandwich. Consent decree of condemnation. Product ordered released under bond for relabeling. (F. D. C. No. 9778. Sample Nos. 32067-F, 32068-F.)

This product was short-weight.

On April 8, 1943, the United States attorney for the Southern District of Ohio filed a libel against a total of 13,520 packages of peanut butter sandwich at Cincinnati, Ohio, (consigned on or about March 12 and 20, 1943) alleging that the article had been shipped in interstate commerce by the Bob Kelley Food Sales Co. from Louisville, Ky.; and charging that it was misbranded. The article was labeled in part: "The Original Bob Kelley's * * * Peanut Butter Sandwich * * * Net Wt 1¾ Oz."

The article was alleged to be misbranded in that the statement "Net Wt. 1¾ Oz." on the label was false and misleading as applied to an article that was short-weight; and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On April 14, 1943, the Bob Kelley Food Sales Co. having appeared as claimant and having admitted the allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.